

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7432

BILL NUMBER: SB 292

DATE PREPARED: Feb 2, 1999

BILL AMENDED: Feb 1, 1999

SUBJECT: Ephedrine.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill requires a court to assess the actual cost of any environmental cleanup against a defendant for conviction of certain offenses related to controlled substances to cover the costs of an environmental cleanup incurred by a law enforcement agency as a result of the offense. It also provides that a person who possesses two or more specified substances with the intent to manufacture certain controlled substances commits a Class D felony.

Effective Date: July 1, 1999.

Explanation of State Expenditures: (Revised) This bill creates a new Class D felony for intent to manufacture ephedrine-derived controlled substances. A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor (depending upon mitigating and aggravating circumstances). The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately seven months.

Explanation of State Revenues: (Revised) If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

In addition, persons convicted of a drug related offense may also be liable for a drug abuse, prosecution, interdiction and correction fee ranging between \$200 and \$1,000. The revenue collected from this fee is

deposited in the state user fee fund and distributed to state and local programs.

This bill requires the courts to assess an amount to cover the costs of an environmental cleanup incurred by a law enforcement agency as a result of certain controlled substance offenses. The amount which could be received by the State Police under this measure is dependant upon the cost of any environmental cleanup that is required.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: (Revised) If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

In addition, if a person is convicted of a drug related offense, a sentencing court may assess a marijuana eradication fee of not more than \$300, if the county has established a Weed Control Board. The court may also assess an alcohol and drug services program fee of not more than \$300 if a local government has established an alcohol and drug services program. Revenue collected from the marijuana eradication fee is deposited into the county user fee fund. Revenue collected from the alcohol and drug services program fee is deposited in the county or city or town user fee fund.

Court-assessed costs for conviction of certain offenses related to controlled substances will be set to cover the expenditures incurred for an environmental cleanup by law enforcement agencies. The amounts are dependant upon the cost of each environmental cleanup.

State Agencies Affected: State Police, Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.